

**Assembly Bill No. 827**

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Passed the Assembly August 31, 2010

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*Chief Clerk of the Assembly*

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Passed the Senate August 30, 2010

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Chapter 10.1 (commencing with Section 3511.1) to Division 4 of Title 1 of the Government Code, relating to local public employees, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

AB 827, De La Torre. Local public employees.

The Meyers-Milias-Brown Act contains various provisions that govern collective bargaining of local represented employees. The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. Existing law requires all contracts of employment between an employee and a local agency employer to include a provision which provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract, with a maximum of 18 months.

This bill would, on and after January 1, 2011, additionally prohibit an employment contract for a local excluded employee, as defined, from including any clause that provides for an automatic renewal, an automatic compensation increase, as specified, or an automatic compensation increase in excess of a cost-of-living adjustment. The bill would also require the local agency, as defined, to complete a performance review of any excluded employee, as defined, before an increase in compensation in excess of a cost-of-living adjustment may be implemented for that individual. The bill would also specify that those records, procedures, and actions shall conform to the requirements of law, including, but not limited to, the Public Records Act and the Ralph M. Brown Act. By expanding the duties of local officials, this bill would impose a state-mandated local program.

The bill would express a legislative finding and declaration that, to ensure the statewide integrity of local government, the procedures for the appointment and compensation of excluded

employees are an issue of statewide concern and that, therefore, all counties and cities, including charter counties, charter cities, and charter cities and counties, would be subject to the provisions of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 10.1 (commencing with Section 3511.1) is added to Division 4 of Title 1 of the Government Code, to read:

CHAPTER 10.1. EXCLUDED LOCAL PUBLIC EMPLOYEES

3511.1. As used in this chapter, the following definitions apply:

(a) "Compensation" means any of the following:

- (1) Annual salary or stipend.
- (2) Local agency payments to the filer's deferred compensation or defined benefit plans.
- (3) Automobile and equipment allowances.
- (4) Supplemental incentive and bonus payments.
- (5) Local agency payments to the filer that are in excess of the standard benefits that the local agency offers for all other employees.

(b) "Cost-of-living" means the Consumer Price Index that applies to a local agency, as calculated by the Department of Finance using a formula developed by the Department of Industrial Relations.

(c) "Excluded employee" means any person who is or will be employed by, and report directly to, the legislative body of a local agency and who is not subject to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500)), Chapter 5

(commencing with Section 45100) of Part 25 of Division 3 of Title 2 of the Education Code, or Chapter 4 (commencing with Section 88000) of Part 51 of Division 7 of Title 3 of the Education Code. “Excluded employee” includes any person who performs governmental duties for a local agency pursuant to a contract with that local agency and any person who is considered an at-will employee.

(d) “Local agency” means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

3511.2. On or after January 1, 2011, no contract executed or renewed between a local agency and an excluded employee shall provide for any of the following:

(a) An automatic renewal of the contract.

(b) An automatic increase in compensation that exceeds a cost-of-living adjustment.

(c) An automatic increase in compensation that is linked to another contract, including an agreement entered into pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500)), Chapter 5 (commencing with Section 45100) of Part 25 of Division 3 of Title 2 of the Education Code, or Chapter 4 (commencing with Section 88000) of Part 51 of Division 7 of Title 3 of the Education Code.

(d) A maximum cash settlement that exceeds the amounts determined pursuant to Article 3.5 (commencing with Section 53260) of Chapter 2 of Part 1 of Division 2 of Title 5.

3511.3. (a) Before a local agency may increase the compensation of an excluded employee, the local agency shall complete a performance review of the excluded employee.

(b) The records, procedures, and actions shall conform to the requirements of law, including, but not limited to, the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7) and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) This section does not apply to cost-of-living adjustments to compensation.

SEC. 2. The Legislature finds and declares that the fiscal integrity and stability of local governmental agencies in this state, including charter cities and charter counties, have a direct impact

on the long-term well-being of all the residents of this state. The likelihood of businesses locating to or staying in the state is affected by the perception of a functioning, transparent, and practical governmental structure in the local governmental bodies in California. Therefore, the Legislature finds and declares that to ensure the statewide integrity of local government, the procedures for the appointment and compensation of excluded employees are an issue of statewide concern. Therefore, this act shall apply to all counties and cities, including charter counties, charter cities, and charter cities and counties.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve fiscal integrity and stability of local government agencies in this state and the perception of a functioning, transparent, and practical governmental structure in the local government bodies in California at the earliest possible time, it is necessary for this measure to take effect immediately.





Approved \_\_\_\_\_, 2010

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*Governor*